

**TOWN OF DAVIE  
TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Phillip R. Holste, Program Manager, 954-797-1041

**PREPARED BY:** Phillip R. Holste, Program Manager

**SUBJECT:** Resolution

**AFFECTED DISTRICT:** District 2

**ITEM REQUEST:** Schedule for Council Meeting

**TITLE OF AGENDA ITEM:** AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE CONSENT AGREEMENT FOR THE SUBLEASE BETWEEN CLEARWIRE WIRELESS AND AMERICAN TOWER CONCERNING THE MONOPOLE TELECOMMUNICATIONS TOWER LOCATED AT 3800 SW 92 AVENUE; AND PROVIDING FOR AN EFFECTIVE DATE. (\$10,800 annual revenue)

**REPORT IN BRIEF:** On November 19, 1997, the Town signed an agreement (R97-407) with Omnipoint Communication DEF Operation, Incorporated to lease space for a monopole cellular tower at Pine Island Park, 3800 SW 92 Avenue. Subsequently, Omnipoint was purchased by American Tower Delaware Corporation. This initial agreement allowed two additional co-locations on the monopole and stated that the Town would receive 50% of co-location revenue.

On May 16, 2001, a first amendment to the initial agreement was approved (R2001-126). This amendment modified the initial agreement by leasing an additional 240 square feet to American Tower. Additionally, the amendment gave consent to the co-location of AT&T on the monopole. On May 16, 2001, a second amendment to the initial agreement was approved (R2001-127). This amendment gave consent to the co-location of MetroPCS on the monopole. On June 7, 2006, a third amendment to the initial agreement was approved (R2006-154). This amendment modified the initial agreement by leasing an additional 550 square feet to American Tower. Additionally, the amendment gave consent to adding a fourth carrier to the tower.

This resolution approves the proposed sublease between American Tower and Clearwire Wireless that will add a third co-location or fourth carrier to the monopole.

**PREVIOUS ACTIONS:** R97-407 (Original Lease Agreement), R2001-126 (First Amendment), R2001-127 (Second Amendment), R2006-154 (Third Amendment)

**CONCURRENCES:** None

**FISCAL IMPACT:** Yes

Has request been budgeted? No

Additional Comments: The Town will receive \$10,800 annually

**RECOMMENDATION(S):** Motion to approve resolution

**Attachment(s):** Resolution, Exhibit A: Consent Agreement

RESOLUTION \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE CONSENT AGREEMENT FOR THE SUBLEASE BETWEEN CLEARWIRE WIRELESS AND AMERICAN TOWER CONCERNING THE MONOPOLE TELECOMMUNICATIONS TOWER LOCATED AT 3800 SW 92 AVENUE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, LESSOR and OMNIPOINT entered into that certain Lease Agreement ("Agreement") dated November 19, 1997, which by this reference is incorporated herein and made a part hereof, whereby LESSOR leased to OMNIPOINT that certain real property in Broward County, Florida, located at Parcel "A", of the Pine Island Park, according to the Plat thereof, as recorded in Plat Book 139, page 28, of the Public Records of Broward County, Florida, more specifically described in and substantially shown as outlined on Exhibit "A" attached hereto and made a part hereof ("Property"); and

WHEREAS, LESSOR and TENANT previously amended the Agreement pursuant to the First Amendment to the Lease Agreement dated May 16, 2001 to allow for additional leased area and to approve a sublease between American Tower and AT&T ; and

WHEREAS, LESSOR and TENANT previously amended the Agreement pursuant to the Second Amendment to the Lease Agreement dated May 16, 2001 to approve a sublease between American Tower and MetroPCS; and

WHEREAS, LESSOR and TENANT previously amended the Agreement pursuant to the Third Amendment to the Lease Agreement dated June 7, 2006 to allow for additional leased area and a fourth carrier on the tower; and

WHEREAS, TENANT has agreed to a sublease with Clearwire Wireless for co-location on the monopole; and

WHEREAS, TENANT and Clearwire Wireless requested the Town's approval of the sublease.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. That the recitals set forth above are true and correct and are made a part of this resolution.

SECTION 2. The Town Council of the Town of Davie hereby approves the sublease between Clearwire Wireless and American Tower for the Pine Island Park monopole.

SECTION 3. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009.

\_\_\_\_\_

MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009

**Exhibit A: Consent Agreement**



VIA FedEx

August 31, 2009

Town of Davie  
6591 Orange Drive  
Davie, FL 33314

RE: American Tower  
**Clearwire Wireless at Bamford Sports Complex; 91542; 439043**  
Request for consent to sublease

Dear Property Owner:

The purpose of this letter is to request your consent to a proposed sublease between **Clearwire US, LLC**, its successors, assigns, parents, affiliates and subsidiaries ("Clearwire"), and **American Tower** at the communications tower located on your property. American Tower will continue to be responsible for performance of all obligations under the lease with you. Please acknowledge your approval to this installation by signing and dating the two (2) enclosed originals as provided in the space below and returning one immediately. Please keep the other original for your records. If you have any questions, please do not hesitate to call me at 781-926-7120.

Thank you for your attention to this matter.

Sincerely,

\_\_\_\_\_  
Danielle Roper  
Contracts Specialist  
American Tower Corporation

I acknowledge and agree to a sublease between Clearwire, its successors, assigns, parents, affiliates and subsidiaries, and American Tower at the aforereferenced communications tower. This consent shall apply to any and all approvals and notices related to the sublease of Clearwire, its successors, assigns, parents, affiliates and subsidiaries, at the tower site including, but not limited to, notice of construction, construction approvals and approval of the sublease.

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
NAME

\_\_\_\_\_  
DATE

